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RECEIVED
U.S. DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION

5 Attorneys for Defendants KAISER ALUMINUM
6 CORPORATION and KAISER ALUMINUM &
7 CHEMICAL CORPORATION

10 MOSS LANDING COMMERCIAL PARK
11 LLC,

12 Plaintiff,
13 v.

14 KAISER ALUMINUM CORPORATION,
15 KAISER ALUMINUM & CHEMICAL
16 CORPORATION, and DOES 1 through
100,

17 Defendants.

CASE NO. C07 06072 RMW

**STIPULATION AND []
ORDER CONTINUING CASE
MANAGEMENT CONFERENCE**

18 WHEREAS, plaintiff Moss Landing Commercial Park (“MLCP”) has filed and served its
19 First Amended Complaint (“Complaint”) upon defendants Kaiser Aluminum Corporation and
20 Kaiser Aluminum & Chemical Corporation (collectively, the “Kaiser Defendants”), and the
21 Kaiser Defendants have answered such Complaint;

22 WHEREAS, the Kaiser Defendants assert that this lawsuit is barred by the relief granted
23 to the Kaiser Defendants in their Chapter 11 bankruptcy proceedings;

24 WHEREAS, the Kaiser Defendants sought and obtained an order from the Delaware
25 Bankruptcy Court requiring MLCP to dismiss its Complaint;

26 WHEREAS, MLCP appealed therefrom to the Delaware District Court, and then to the
27 Third Circuit Court of Appeals;

28 WHEREAS, on July 8, 2010, the Third Circuit Court of Appeals instructed the Delaware

1 District Court to remand the case to the Delaware Bankruptcy Court for the Bankruptcy Court to
 2 provide a decision as to whether each cause of action in this lawsuit was discharged or otherwise
 3 released, waived or settled. The case was remanded back to the Delaware Bankruptcy Court by
 4 order of the Delaware District Court on September 16, 2010. The matter has been fully briefed,
 5 yet the hearing has been continued in light of the parties' settlement agreement described below.
 6 Thus, the Bankruptcy Court has not yet issued a decision;

7 WHEREAS, the parties have signed a settlement agreement and have filed a Motion in the
 8 Delaware Bankruptcy Court for review and approval. The parties have requested a September 26
 9 hearing date on that Motion. Assuming the settlement is approved by the Bankruptcy Court, the
 10 settlement will require MLCP to dismiss this lawsuit with prejudice; and

11 WHEREAS, the parties wish to conserve judicial resources and their litigation expenses.

12 NOW, THEREFORE, plaintiff MLCP and the Kaiser Defendants stipulate and
 13 respectfully request that the Court enter an order as follows:

14 1. The Case Management Conference currently scheduled for September 2, 2011,
 15 shall be continued to November 4, 2011 at 10:30 a.m. in Courtroom 6.

16 2. Not later than October 28, 2011, MLCP shall dismiss this action with prejudice or
 17 the parties shall file a joint Case Management Conference Statement.

18 Dated: August 26, 2011

19 LAW OFFICES OF CHRISTOPHER C. CAYCE

20 By: /s/ Christopher C. Cayce
 21 CHRISTOPHER C. CAYCE
 22 Attorneys for Plaintiff MOSS LANDING
 23 COMMERCIAL PARK LLC

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2 Dated: August 26, 2011
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4 JONES DAY
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6 By: /s/ Thomas M. Donnelly
7 THOMAS M. DONNELLY
8 Attorneys for Defendants KAISER ALUMINUM
9 CORPORATION and KAISER ALUMINUM &
10 CHEMICAL CORPORATION
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12 **IT IS SO ORDERED.**
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14 Dated: JMF, 2011
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16 
17 The Honorable Ronald M. Whyte
18 United States District Court Judge
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